

TABLE OF CONTENTS

	<u>PAGE(S)</u>
TABLE OF AUTHORITIES.....	iii
PLAINTIFF’S MEMORANDUM OF LAW IN OPOSITION TO MOTION TO DISMISS OF DEFENDANT DMI ADMINISTRATIVE SERVICES, S.A.	1

TABLE OF AUTHORITIES

STATUTES

Fed. R. Civ. Proc. 12(b)	1
Fed. R. Civ. Proc. 4(f)	1

PLAINTIFF'S MEMORANDUM OF LAW IN OPPOSITION TO MOTION TO DISMISS OF DEFENDANT DMI ADMINISTRATIVE SERVICES, S.A.

Plaintiff, NEW YORK MARINE AND GENERAL INSURANCE COMPANY ("NYMAGIC"), commenced the instant action to recover damages resulting from the terrorist attacks of September 11, 2001. After the action was commenced it was consolidated with other similar cases in the multi-district litigation, *In Re: Terrorist Attacks on September 11, 2001*; 03 MDL No.: 1570 (RCC) ("MDL 1570").

Defendant, DMI ADMINISTRATIVE SERVICES, S.A. ("DMI"), has filed a motion to dismiss NYMAGIC's First Amended Complaint pursuant to Fed. R. Civ. Proc. 12(b) and 4(f) ("Motion to Dismiss"). DMI's Motion to Dismiss is virtually identical to the motion to dismiss filed by DMI in *Federal Insurance Co., et al v. Al Qaida, et al.*, 03 CV 06978 (RCC), an action also consolidated in MDL 1570. Thus, to avoid burdening the Court with the filing of duplicative papers, NYMAGIC, as its opposition to DMI's Motion to Dismiss, respectfully adopts the arguments submitted by the plaintiffs in *Federal Insurance Co., et al v. Al Qaida, et al.*, 03 CV 06978 (RCC), in their Memorandum of Law in Opposition to Motion to Dismiss of Defendant DMI Administrative Services, S.A. filed on December 14, 2004 under 03 CV 06978 ECF Docket No. 254 and 03 MD 01570 ECF Docket No. 574 and incorporates said arguments by reference herein.

For the reason set forth therein, NYMAGIC respectfully requests that the instant motion be denied in all respects.

Respectfully submitted,

BROWN GAVALAS & FROMM LLP
Attorneys for Plaintiff
NEW YORK MARINE AND GENERAL
INSURANCE COMPANY

BY: S/
DAVID H. FROMM, ESQ. (DH-9334)
FRANK J. RUBINO, JR., ESQ. (FR-6202)
355 Lexington Avenue
New York, NY 10017
212-983-8500